



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 15 1985

OFFICE OF
WATER

MEMORANDUM

SUBJECT: UIC Grant Guidance
FROM: Victor J. Kimm, Director
Office of Drinking Water (WH-550)
TO: Water Division Directors
Water Supply Branch Chiefs
Region I - X

Attached is the final guidance for the Underground Injection Control program grants. This guidance is based on Regional responses to the last year's draft UIC grant guidance and comments from the Office of General Counsel. I would like to call your attention especially to the following items.

- (1) Beginning with FY 86, we will include all categories of wells (except those permanently abandoned) as reported by the States to the Federal UIC Reporting System (FURS) as of March 1 of each year to determine State allotments. We will also use the most recently published population data by the Census Bureau for final grant calculations.
- (2) For the direct implementation program, we will continue the policy requiring Regions to prepare work plans for their implementation activities. Based on our experience gained from the FY 85 operations, we will improve and speed up the evaluation and approval process this year. A memorandum concerning the preparation of the work plans was sent to you July 19, 1985.
- (3) In order to enhance the oversight activity, we request that you transmit to us information on primacy State work programs and Financial Status Reports together with your annual evaluations. This information should be readily available and is extremely valuable to aid our annual budget preparation efforts and responses to Congressional and in-house questions.
- (4) The current grant regulation prohibits the Regions from reallocating any unused direct implementation program funds within the Regions and requires that Regions return these funds to Headquarters for reallocation.

FINAL

UIC PROGRAM GRANTS
IMPLEMENTATION GUIDANCE

OFFICE OF DRINKING WATER

JULY 1985

ATTACHMENTS

ATTACHMENT A - FY 86 UIC Grant Formula

ATTACHMENT B - Inventories Used to Compute FY 86 UIC Final Allotments

ATTACHMENT C - FY 86 Fund allotments by well class

ATTACHMENT D - FY 86 UIC Final Allotments

ATTACHMENT E - EPA Form 5720-5 (Part V of UIC Annual Report)

I. DEVELOPMENT OF FORMULA ALLOTMENTS - § 35.115(e)

A) Factors and Weightings

Although the grant regulations state that the UIC allotments shall be based on, "the State's population, geographic area, extent of underground injection practices, and other relevant factors", they do not specify how these factors should be used to determine the States' allotments. For the FY 1986 UIC allotments, we will continue to apply the workload formula based on the following 7 weighted factors in determining each State's total allotment: population - 10%, land area - 10%, number of Class I wells within the State - 14%, number of Class II wells within the State 41%, number of Class III wells within the State - 10%, number of Class IV wells within the State - 4%, and number of Class V wells within the State 11%. The portion of a State's allotment attributable to either its population or land area is calculated through the application of the following formula:

$$(0.10 \times \text{Appropriation}) \times \left[\frac{\sqrt{\text{State } i \text{ population}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ population}}} \right]$$

The portion of a State's allotment attributable to each of the 5 well classes is calculated through the application of the following formula:

$$\$6,000 + [(\text{weighting} \times \text{Appropriation}) - (59 \times \$6,000)] \times \left[\frac{\sqrt{\text{State } i \text{ Wells}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Wells}}} \right]$$

The above formula provides each State with a minimum allotment of \$6,000 for each class of well to cover the basic program need regardless of the number of injection wells in that State. The total allocation for a State is determined by adding the individual allotments attributable to each of the 7 factors. Attachment A contains the complete formula used to compute the FY 1986 tentative allotments. Attachment B contains the inventory data for all States for all 7 factors, and Attachment C contains the allotments for all States, attributable to each of the 7 factors. The total State allotment for both primacy programs and D.I. programs is shown in Attachment D.

The above formula may be changed from year to year to reflect changes in, or new information about, the UIC program.

B) Inventories

The revised regulation does not specify the sources for the inventories that are to be used for each State for each of the 7 weighted factors. The tentative allotments (i.e., those based upon the President's budget request) will be calculated using the populations and land areas contained in the most current Statistical Abstract of the United States that is available at the time that the tentative allotments are computed,

number of Class I wells, number of Class II wells, number of Class III sites, number of Class IV wells, and number of Class V wells. The State's allotment attributable to each of the seven factors is based on the State's inventories for each of the 7 factors and is listed in Attachment C. Obviously, a State which has primacy for a \$1425 program, would be eligible for the component allotment attributable to its Class II inventories. However, the State will also be eligible for a portion of the allotments attributable to its population and land area since these component allotments cannot be linked solely with any one well class. The allotment for a State which has primacy for only Class II wells shall be determined by the following formula:

$$\begin{array}{l} \text{allotment} \\ \text{for} \\ \text{Class II} \\ \text{wells} \end{array} + \left[\frac{\text{Class II allotment}}{\text{allotments for all classes}} \right] \times \left[\begin{array}{l} \text{allotment for population} \\ + \text{allotment for land area} \end{array} \right]$$

Likewise, the allotment for a State which has only primacy for well Classes I, III, IV, and V, but not Class II, shall be determined by the following formula:

$$\begin{array}{l} \text{allotments} \\ \text{for Class} \\ \text{I, III, IV} \\ \text{\& V wells} \end{array} + \left[\frac{\text{allotments for} \\ \text{Classes I, III, IV, \& V}}{\text{allotments for all classes}} \right] \times \left[\begin{array}{l} \text{allotment for population} \\ + \text{allotment for land area} \end{array} \right]$$

Attachment D to this guidance separates the FY 1986 final formula allotment into two segments - that for Class II wells, and that for all other well classes. In future years, when we notify Regions of the States' tentative, or final, allotments, our notification memo will continue to separate the formula allotment into these two segments for each State which will or may operate such a partial program.

It is also possible for one agency within a State to have primacy for Class II wells and another agency within the State to have primacy for the remaining well classes. In such a situation the above formulas can, of course, be used to determine a split between the two agencies. However, since our past policy has been to allow States to negotiate the splits internally, and some States have established internal procedures for dividing the allotment, we will not alter this approach for FY 1986.

II. DEVELOPMENT OF PLANNING TARGETS - \$35.120

The revised regulations note that States are not automatically entitled to the allotments calculated by the grant formula. The definition

As noted in section I(D), we will be reviewing this policy in the future, and may decide that the allotments/planning targets grants for States with split programs should be divided strictly according to the grant formula, since in theory, those are the funds which are attributable to each agency's individual work load.

III. UIC PROGRAM ELEMENTS - §35.125(a)

The superseded UIC grant regulation contained a list of defined program elements which each State was to use as a basis for development of its annual program plan (work program). The revised regulations no longer contain program specific program elements, but rather state that Headquarters will develop annual guidance which will contain "a statement of national objectives and priorities, an explanation of the activities required of the Regions, and a list of program elements and associated outputs recommended for State and local environmental programs", (emphasis added).

UIC Guidance # 31 which was issued on June 17, 1983, listed 9 "new" program elements believed to typify a good UIC program:

- Administration: program and grant management, rule and regulation development
- Permitting: permit determination for new and existing wells and Class II well record reviews
- Surveillance, Inspections, and Quality Assurance: monitoring report reviews, field inspections, mechanical integrity tests and quality assurance
- Compliance/Enforcement: administrative compliance actions and legal referrals
- Aquifer Identification and Exemption: aquifer surveys, inventories, contamination investigations, and aquifer exemptions related to underground injection control
- Class V Assessment
- Data Management: inventory of wells, quarterly and annual reporting
- Public Information, Training, and Technical Assistance
- Other

These elements were to be used by the Regions and the States in their FY 84/85 programs. As the above elements still accurately cover the activities which a State would conduct in a good UIC program, they will remain in effect for FY 86, and are to continue to be used until this guidance is changed or rescinded.

The use of these program elements is discussed in sections IV and VII of this guidance.

to adequately evaluate a State's planned activities for the coming year, and to meet the reporting requirements as outlined in the Agency's Strategic Planning and Management System (SPMS). For 1986, these requirements are explained in the Underground Injection Control program guidance #41 dated July 12, 1985.

Regions should send 1 copy of each State's complete grant application (including the budget information contained in Part III, and the Work Program which is Part IV), to the State Programs Division of ODW as soon as the application is approved by the Region.

V. GRANT AWARDS

A State must have primacy for the UIC program (for either all well classes, Class II wells, or Classes I, III, IV, and V wells) before it can be awarded a UIC grant (see \$35.460).

A) States with Primacy on October 1 of a Federal Fiscal Year.

A State which has primacy on the first day of the fiscal year is eligible to receive a grant equal to its full ⁴ formula allotment (or planning target if different from the allotment).

B) States Which Assume Primacy After Oct 1 of a Federal Fiscal Year

When a State newly assumes primacy it becomes eligible for a UIC grant. The Region may, during the first 9 months of the Federal fiscal year, award the State its full allotment (or planning target, if different from the allotment) even though the State will not have primacy for the full fiscal year, if the Region determines that the State can effectively use the funds during the current fiscal year, and can match such an award, and the Region has the funds to cover the full allotment or planning target. In determining the size of the grant the Region should at least consider:

- ° The State's original formula allotment.
- ° The amount of funds remaining in the Region's allowance from the State's original allotment, after deducting all obligations and commitments made by the Region as a result of its direct implementation efforts.
- ° The number of months remaining in the Federal fiscal year, and the amount of funds that the State can match and effectively use during the remaining months of the current year. (Recall, funds cannot be used to reimburse activities that were conducted prior to the assumption of primacy, nor can funds be awarded for activities to be accomplished in the subsequent fiscal year.)

During the final 3 months of a Federal fiscal year a Region should not award a State a grant for its full formula allotment, as we believe

same UIC grant formula, and inventories, as was used to determine that year's final allotment. However, only those States which meet the conditions of (C) or (D) above will be included in the calculations and no base allotment will be made since it has been already applied in the original allotment. If very little money is returned to ODW, the size of each State's formula reallocation may be so small as to be insignificant. In that event we will conduct that year's reallocation on the basis of "special need" rather than formula. If, in any year, no funds are available for a reallocation, obviously no reallocation will be possible for that year.

- Primacy State reallocations should not, as a rule, be Regionally redistributed among the States. Any State which is included in the national reallocation has been so included because that State has demonstrated a need for, and an ability to use additional funds, and the Region has concurred with that need and ability. The State should, therefore, be given an opportunity to apply for its formula reallocation. If, for some reason, the State elects not to apply for the funds after all, the Region may then Regionally reallocate the funds. As with the allotments, Regions cannot Regionally redistribute any funds reallocated for their direct implementation efforts.

VII. EVALUATION OF RECIPIENT PERFORMANCE - §35.150

As described in §35.150, Regions shall conduct at least one evaluation of State performance each year. The selected process for the performance evaluations (including scheduling, frequency, and content) and the evaluations themselves, are to be negotiated between the Regions and the States. ODW requests, however, that Regions insure that the following 3 elements are part of an annual evaluation.

- A) A brief narrative of the major accomplishments, or highlights, of the State program during the year (or budget period). One or two sentences for each of the top 5 or 10 accomplishments.
- B) The Federal grant funds spent, for each of the 9 standard program elements, on the UIC program during the year. The program element expenditures should cover the full 12 months of the State's grant period and the total Federal funds spent should be consistent with the total reported in the State's end-of-year FSR.
- C) The State matching funds spent, for each of the 9 standard program elements, on the UIC program during the year. The program element expenditures should cover the full 12 months of the State's grant period and the total Federal funds spent should be consistent with the total reported in the State's end-of-year FSR.

entered in the FURS - Regions 6 and 9. These 2 Regions were, therefore, included in the calculations for the FY 86 UIC grant allotments, and will be eligible for UIC grant funds to support their FY 86 direct implementation efforts on their Indian lands.

All of the direct implementation provisions, and restrictions, which are discussed in this guidance apply to Indian land programs as well as non-primacy State programs.

B) Travel Funds for Direct Implementation Effort

Each year ODW will request a separate travel ceiling for travel associated with Regional direct implementation efforts. We will then compute a target share for each Region based on need for conducting projected field work such as permit evaluations, inspections and compliance activities, etc. We will inform each Region of its target as soon as we are certain of the total national travel ceiling, hopefully, at the same time as we pass along the State allotment amounts. Regions will use these targets as a base upon which to develop a Regional UIC travel plan to be part of its direct implementation work programs. (See subpart (E) of this section.)

C) Allotments

Allotments for non-primacy States and Indian lands will be calculated using the same formula, and in exactly the same manner as those for primacy States. Calculation of allotments for States which have split programs (1422 vs 1425) are addressed in detail in section I(D) of this guidance. For FY 1986, the allotments for primacy States and direct implementation programs are listed in Attachment E.

Non-primacy State allotments (including the non-primacy portion of an allotment for a State with a split program), and Indian land allotments, will not be included in the targets contained in the Region's initial operating plan. The operating plan will only contain targets for full primacy States, and the primacy portion of the allotment for those States with split programs. Allotments for the Regions' direct implementation efforts will be advised to the Regions only after ODW receives and reviews the Regions' work programs (see subpart E of this section) for their direct implementation activities.

D) Planning Targets

The concept of planning targets is not applicable to non-primacy States and Indian land programs since Regions DO NOT have the authority to alter or redistribute, a) formula allotments for non-primacy States or Indian Lands, or b) the non-primacy portion of the allotment of a State with a split program.

Section 35.155(b) of the regulations provides that a non-primacy State's "allotment" (not planning target) may be used by the Region to support a Federal program in that State. Since the regulation is quite

expenditure not covered in (1) through (4). [NOTE: this does not imply that all such uses are acceptable - see part F7 of this Chapter.]

F) Allowable Uses of UIC Grant Funds for Direct Implementation Programs

- 1) Funds appropriated for the UIC program, under §1443 of the Safe Drinking Water Act, can currently be used to support Regional direct implementation efforts (both non-primacy State and Indian lands) via 4 funding mechanisms:
 - a) Contracts
 - b) Interagency Agreements (IAGs) with other Federal agencies
 - c) Grants and Cooperative Agreements [under §1442(b)(3) of the SDWA], and
 - d) Certain intramural activities.
- 2) EPA cannot use any of these mechanisms to award funds to the agency within a non-primacy State, which would be (or would have been) the primacy agent if that State had primacy.
- 3) EPA's authority under the first two mechanisms allows for conduct of most standard types of direct implementation projects. For example, training, maintenance of an injection well inventory, conducting surveys, providing on-site technical assistance, or conducting non-routine sampling, are all statutorily acceptable efforts if done via a contract or IAG.
- 4) EPA's ability to use the third funding mechanism, grants and cooperative agreements, is however, much more limited. EPA can only use the §1443 authority to award grants to
 - a) primacy States, and b) non-primacy States in their first year of eligibility. Authority under §1443 is not available to EPA for direct implementation efforts. However, certain types of direct implementation activities can be supported using the grant or cooperative agreement mechanism provided for in §1442(b)(3) of the SDWA. This section authorizes EPA to award grants to "any public agency, educational institution, and any other organization" for 3 specified purposes. (The sole exception to this is that a grant cannot be awarded to the agency within a non-primacy State, which would be the primacy agent if that State had primacy - see para 2 above.)
 - a) for "training persons for occupations involving the public health aspects of providing safe drinking water", as provided for in subsection 1442(b)(3)(A),
 - b) for training of "inspectors and supervisory personnel

grant, or IAG awarded by the Region, the recipient of the award, the award date, and the amount of UIC grant funds awarded for each. (This includes projects awarded through ODW's Level of Effort contract.)

- 2) a list of all intramural purchases made with UIC grant funds, including costs.
- 3) a summary of the travel, conducted with UIC grant funds, in support of the Region's direct implementation program.
- 4) a list of any other actual project activity, and/or expenditures not covered in (1) through (4) above.
- 5) a summary of funds spent for each program element identified in Section III using EPA form 7520-5.

IX. FINANCIAL STATUS REPORTS - §30.635-3

In addition to the data discussed elsewhere in this guidance, we believe there are 4 more pieces of financial information which we need from each State to be able to account for the Congressional appropriation. These 4 items are:

- A) Total Federal funds available to the State for the UIC program during the budget period. (This includes a breakout of the new year awards vs. the funds carried over by the State from prior year awards),
- B) Total Federal funds actually spent (estimates are not acceptable) on the UIC program during the budget period,
- C) Total Federal funds remaining unspent at the close of the budget period, and
- D) The State matching funds spent on the program during the budget period.

All of these data are typically contained in a State's final Financial Status Report (FSR), which the General Grant Regulations, §30.505, require the State to submit to a Region within 90 days after the close of its budget period. Water Supply Branches should either, a) forward copies of these FSR's (including all subsequent revisions) to ODW within a few weeks after receipt at the Region, or b) prepare a separate report which contains the above 4 items, for each primacy State within its jurisdiction.

FY 86 UIC GRANT FORMULA FOR TENTATIVE ALLOTMENTSALLOTMENT TO STATE i =

$$+ (0.10 \times \text{Appropriation}) \times \frac{\sqrt{\text{State } i \text{ Population}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Population}}}$$

$$+ (0.10 \times \text{Appropriation}) \times \frac{\sqrt{\text{State } i \text{ Land Area}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Land Area}}}$$

$$+ \$6000 + [(0.14 \times \text{Appropriation} - \$6000 \times 59)] \times \frac{\sqrt{\text{State } i \text{ Class I Wells}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Class I Wells}}}$$

$$+ \$6000 + [(0.41 \times \text{Appropriation} - \$6000 \times 59)] \times \frac{\sqrt{\text{State } i \text{ Class II Wells}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Class II Wells}}}$$

$$+ \$6000 + [(0.10 \times \text{Appropriation} - \$6000 \times 59)] \times \frac{\sqrt{\text{State } i \text{ Class III Wells}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Class III Wells}}}$$

$$+ \$6000 + [(0.04 \times \text{Appropriation} - \$6000 \times 59)] \times \frac{\sqrt{\text{State } i \text{ Class IV Wells}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Class IV Wells}}}$$

$$+ \$6000 + [(0.11 \times \text{Appropriation} - \$6000 \times 59)] \times \frac{\sqrt{\text{State } i \text{ Class V Wells}}}{\sum_{i=1}^{59} \sqrt{\text{State } i \text{ Class V Wells}}}$$

 (Appropriation for FY 86 = \$ 9,100,200)

 (59 States include 57 States and Territories and Indian Lands in Regions 6 and 9)

X. SUMMARY OF UIC GRANTS RELATED INFORMATION TO BE REPORTED TO ODW

(1) Work Programs

- A. Primacy State work programs/grant applications - including the narrative portions, Parts I, II, III, and IV. (See guidance section IV.)

DUE: September - November of each fiscal year.

- B. Direct Implementation Work Programs. (See guidance section VIII(D)).

DUE: August 31 of each fiscal year.

(2) Funds for Reallotment

Information on Projected Unspent UIC Grant Funds for Use in Conducting the National Reallotment. (See guidance section VI).

DUE: By April 1, of each Federal fiscal year.

(3) Annual Program Accomplishment Report

- A. Regional Evaluations of Primacy State Programs, including summary narratives of annual State program accomplishments.

DUE: Complete evaluations due upon completion of annual Regional evaluations of State programs.

- B. Regional End-of-Year Report for Direct Implementation Programs. (See guidance section VIII(G)).

DUE: Within 8 weeks after the close of each Federal fiscal year - i.e., by December 1.

(4) Financial Status Report

- A. Primacy State Financial Status Reports. (See guidance section IX.)

DUE: Upon receipt from State. At a maximum, shortly after 90 days after the close of the State's budget period.

- B. Primacy State and direct implementation State end-of-year expenditure summary, EPA Form 7520-5.

DUE: EPA Form 7520-5 due on February 28, together with other Annual Report Forms (EPA 7520-1, 2, 3 and 4).

to train or supervise persons in occupations involving the public health aspects of providing safe drinking water", as provided for in subsection (b)(3)(B), and

- c) for efforts which "develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(c)))", as provided for in subsection (b)(3)(C).
- 5) Subsections 1442(b)(3)(A) and (B) provide EPA with the authority to conduct training efforts (excluding training of non-primacy State personnel) in support of its direct implementation programs.
- 6) All grants and cooperative agreements in support of direct implementation activities, other than training, must be awarded using the authority provided by §1442(b)(3)(C). This section limits EPA's grant making authority to support direct implementation activities to those efforts which develop and expand the drinking water program capabilities of non-primacy States, and municipalities (including Indian land tribes). Generally, this section may not be used to perform any routine primacy agent efforts. If a Region wishes to conduct any routine UIC program efforts with its direct implementation funds, it can do so, but should use the contract or IAG funding mechanisms.
- 7) Funds appropriated under §1443 may not be used to support EPA salaries. Such funds may be used to support travel which is directly associated with the Region's UIC direct implementation efforts. Travel expenditures may not, however, exceed the level previously authorized by the Office of the Comptroller. Any other proposed intramural use of the §1443 funds will be examined on a case-by-case basis and will require approval of the Office of the Comptroller, in addition to ODW programmatic approval. (See memo from Paul M. Baltay dated July 19, 1985 "FY '86 Direct Implementation Work Plans."

G) End-Of-Year Reporting for Direct Implementation Programs

At the close of each fiscal year, each Region will prepare a short summary (a separate one for each non-primacy State or Indian land program) of projects conducted during the year. Each shall be submitted to the State Programs Division of ODW within 8 weeks after the end of the fiscal year (i.e., December 1). As with the work programs, there will be no rigid format established, but at a minimum, they should include the following:

- 1) a brief (two or three sentence) description of each contract,

explicit about the difference between "allotments" and "planning targets," we believe that the regulation intended that a Region's authority to use funds for direct implementation efforts be limited to the amount established through the allotment formula. Section 35.155(b) also specifies that any portion of a non-primacy State's "allotment" not used by the Region to support a Federal program in that State is to be reallocated "by the Administrator", not the Region. These statements lead us to conclude that a) a Region does not have the authority to use more funds for its direct implementation efforts in a State or Indian land than were "allotted" for that State or Indian land, and b) the Region does not have the authority to do anything with any part of a non-primacy State or Indian land allotment other than to use it to operate a direct implementation program for that, and only that, State or Indian land.

E) Work Programs

Each Region which serves as a primacy agent for a non-primacy State or an Indian land(s) will prepare a "work program" for its non-primacy efforts. A separate work program is to be prepared for each non-primacy State. Each Region which is to be allotted funds for direct implementation of an Indian land program shall also prepare one work program for all of its Indian land efforts. These work programs are to be submitted to ODW by August 31, one month prior to the start of each new fiscal year. ODW will review the work programs and will advise each direct implementation allotment based on the results of the review.

There will be no rigid work program format, however, each work program should, at a minimum, include the following:

- 1) a one page summary of the major goals, and expected accomplishments, of the Region's planned direct implementation program. (Including those activities to be conducted intramurally, i.e., with Regional staff).
- 2) a brief description of each contract, grant, or IAG, that the Region plans to award in support of the program during the fiscal year. (This includes projects planned for accomplishment through ODW's Level of Effort contract.) A cost estimate must also be provided for each separate project.
- 3) a list of all proposed intramural purchases, including the estimated cost of each. [NOTE: this does not imply that all such uses are acceptable - see part F7 of this Chapter]
- 4) a brief summary of the anticipated travel in support of the Region's direct implementation effort, including the estimated costs. The travel targets, which are explained in subsection (B) of this section should be used as the base for the Region's travel plan.
- 5) a list of any other proposed project, activity, and/or

The information requested in item (A) need not consist of more than one or two sentences for each of the State's top 5 or 10 activities. The information requested in items (B) and (C) should be compiled in EPA Form 7520-5 as part of the UIC Annual Report, a copy of which is included in this guidance as Attachment E.

If States do not track actual expenditures, or workyears, by program element, estimated expenditures are perfectly acceptable. (The preamble to 40 CFR 35 Subpart A, notes that, "EPA does not intend for the recipient to set up an accounting system to track funds by program element", but that "we expect the applicant/recipient to provide us its best estimate of these amounts".) However, even if the State estimates its program element breakout, the sum of the program element expenditures should still agree with the expenditure information contained in the State's end-of-year FSR.

If Regions do not wish to request the above information from the States, then the Regions shall, a) prepare a brief narrative of the State's accomplishments, and b) estimate each State's expenditures and workyears per program element, and provide us with a completed EPA Form 7520-5 for each State.

Regions should forward the above information to the State Programs Division (SPD) of ODW together with other State Annual Reports on or before February 28.

Regions should also submit copies of their complete annual State evaluations to SPD as soon as they are complete.

VIII. DIRECT IMPLEMENTATION PROGRAMS - §35.155(b)(1)

EPA is responsible for implementing UIC programs in those States which have not yet assumed primacy, and on Federal Indian lands. Section 35.155 of the program grant regulations allows EPA to use UIC grant funds to support these Regional "direct implementation" programs.

A) Indian Land Programs

While §35.155(b)(1) specifically provides for grant funding for implementation of non-primacy State programs, it does not specifically address use of grant funds for direct implementation of Indian land programs. We believe the intent of the regulations is to support all Congressionally mandated direct implementation programs with UIC grant funds.

Any Region that has injection wells on the Indian lands within its jurisdiction, and has entered those wells in the FURS by March 1, will be included in the UIC grant allotment calculations for the subsequent year's allotments. Currently, 2 Regions have Indian land injection wells

that it would be impossible for a State to effectively use its full allotment during such a short period. We believe that during these last 3 months, Regions should prorate the full allotment based on the number of days remaining in the Federal fiscal year.

Any grant to the new primacy State must be comprised of funds remaining from that State's original allotment, or funds unwanted or unneeded by the Region's other primacy States. Regions cannot supplement awards to any primacy State with funds which were allotted for its other non-primacy States or Indian lands for direct implementation efforts. (See section VIII(D) of this guidance for a detailed explanation.)

VI. NATIONAL REALLOTMENT - \$35.155

The current grant regulations provide for a national reallocation, to be comprised of funds from two sources: a) portions of non-primacy State allotments which the Regions do not expect to use in the direct implementation program by the end of the Federal fiscal year, and b) portions of primacy State planning targets which the Regions do not expect to award to the primacy States by the end of the fiscal year.

The national reallocation will be computed during the month of April of each fiscal year. Each Region should provide, in writing, the following information to ODW by April 1 of each fiscal year:

- A) The amount of each primacy State's allotment, or planning target, which will not be awarded to the State, or to another primacy State within the Region, by the end of the Federal fiscal year.
- B) The amount of each non-primacy State's formula allotment that will not be used by the Region for direct implementation efforts by the end of the Federal fiscal year.
- C) Which primacy States wish to participate in the national reallocation. Only those States which the Region determines have a need for and can effectively use additional funds, and can meet the 25% matching requirement, will be eligible to participate.
- D) Which direct implementation State programs, in which the Region is the primacy agent, require additional funds, and therefore the Region wishes to include in the reallocation.
- E) Which States (both primacy and direct implementation) the Region believes have a "special need" for additional funds during the year. (Other than funds the State may receive through a formula reallocation.)

We intend to conduct the national reallocation through the use of the

IV. DEVELOPMENT OF STATE WORK PROGRAMS - §35.130

Although the grant regulation allows States to use their own work program format, §35.130 does require that the work programs, "specify the work years and amount and source of funding estimated to be needed for each program element, the outputs committed to under each program element, . . . a schedule for accomplishment of outputs, and an identification of the agency responsible for each of the elements and outputs". As stated in the preamble to the regulations, the Agency believes this information is necessary "to evaluate the application and the reasonableness of proposed costs", and is "needed for sound program management." Further, each EPA program office uses this information "to justify its budget to OMB and Congress."

Of the work program requirements noted above, ODW has a specific need for the work years and amount of funds planned for each program element. However, for this information to be of value to us in compiling a report for OMB and Congress, the elements must be uniform so we can tally the costs and work years on a national basis. We, therefore, request that Regions list in their annual guidance to States (§35.125b), the 9 program elements contained in Section III of this guidance, and inform each State that it is to use these elements in preparing Part III, Section B - Schedule B, of its grant application, or include them as part of Part IV (Work Program) of the application. A complete grant application should therefore contain:

- a) the amount of Federal funding estimated to be needed for each of the 9 standard program elements,
- b) the amount of State funding estimated to be needed for each of the 9 standard program elements,
- c) the number of work years to be supported with the combined Federal and State funds, for each of the 9 standard program elements.

This should not pose an unreasonable burden on the States since the request will in no way interfere with established State accounting or tracking mechanisms - the plans we are asking for are merely estimates. Further, this is not a new reporting requirement. This type of breakout, by program element, has been a required part of Part III of a grant application package since the inception of the program.

The remaining reporting requirements mentioned in §35.130 are intended for Regional oversight efforts (although ODW may also use this information to justify the UIC Grants budget and to determine where States are placing their program priorities). The specific type of information required, the degree of detail, and format for these other requirements will, however, be determined through State/Regional negotiation. Regions should request whatever information they believe is necessary

of Allotment (\$35.105) states that, "the allotment is not an entitlement but rather the objective basis for determining the range for a State's planning target." Section 35.120 then notes that, "a planning target is ... based on the state's allotment and the Regional Administrator's evaluation of each applicant's ability to use allotted funds effectively." The regulation, therefore, gives the Regional Administrators the authority to issue planning targets to primacy States which are different from the formula allotments. In exercising this authority, however, Regions must be aware that in those cases where they issue to a State a target which is less than its formula allotment, the State still has the right to prepare a work program based upon its full formula allotment. If after review of the State's work program, the RA determines that the outputs in the plan are not consistent with the priorities contained in EPA guidance, the RA may then, and only then, award a grant for an amount less than the State applied for.

A) Planning Targets for States with Primacy for all Classes of Wells

If a State has primary enforcement responsibility for all injection wells (Classes I, II, III, IV, and V), the Region will use the State's entire formula allotment as a basis for determining the State's planning target.

B) Planning Targets for States with Primacy for only Certain Classes of Wells

If the State has only primacy for a portion of its injection wells, the Region cannot use the State's entire formula allotment to determine a planning target and grant. The allotment attributable to the well classes for which the State does not have primacy is to be used by the Region to directly implement that non-primacy portion of the State's UIC program and, therefore, cannot be used as part of the basis for the State's planning target. The calculation of these split allotments is explained in detail in section I(D) of this guidance, and a listing of the splits is contained in Attachment D.

C) Planning Targets for States Whose Primacy Programs are Split Between Different Agencies within the State

As noted in section I(D) of this guidance, for FY 86 we are going to continue to allow States, whose primacy programs are divided between two different agencies within the State, to negotiate the split of the full State allotment. We suggest therefore, that Regions approach planning target development for such split primacy States no differently than they would any other full primacy State, and afford the two State agencies the opportunity to internally negotiate a grant target split. If the agencies cannot negotiate a split or request EPA involvement, the Region should then, of course, recommend individual targets as contained in Attachment D to each agency.

between March 1 and March 15. The inventories of the well classes will be taken from the Federal Underground Injection Control Report System (FURS) as it exists on March 1 of the same year. For FY 85 and prior years, we included only active wells in the allotment calculations. Beginning with the tentative allotment calculations for FY 86, the grant eligible inventory has been expanded to include everything but permanently abandoned wells. For the final allotments, (i.e., those based upon the actual appropriation), we will use updated population figures and the well inventories that existed in the FURS as of March 1 of each year to compute the State allocations. Any changes to the FURS made after March 1 will not be considered in any grant computations until the following year's tentative allotment is computed. (As previously noted, attachment B contains a complete list of the inventory data used to compute the FY 86 final allotments.)

C) Notification

We plan to compute the annual UIC allotments by March 15 of each year, assuming that the President has delivered his budget to Congress by that date and the inventory data has been updated. We therefore expect to be notifying you of your States' tentative allotments by the end of March of each year. As soon as our Appropriation Act is signed by the President, and we know how much funding has been made available for the UIC program for the year, we will compute the final UIC allotments. Although we cannot predict when this will occur, we hope to be able to inform you of the final allotments by mid to late August.

D) Allotments for States with Split Programs

On December 5, 1980, Congress amended the Safe Drinking Water Act by adding §1425, which gave States the option of seeking primary enforcement responsibility for only those injection wells related to oil and natural gas production rather than seeking primacy for all injection wells. As a result, States can now assume primacy for any of the following:

- 1) all classes of injection wells (I - V) - under §1422 of the SDWA,
- 2) only Class II injection wells - under § 1425 of the SDWA, or and/or
- 3) all classes of injection wells except Class II wells - under §1422 of the SDWA.

It is possible, therefore, for a State to "split" its primary enforcement responsibility - to assume primacy for only certain classes of wells, thus requiring EPA to assume responsibility for implementation of the program for the remaining classes.

If a State only has primacy for a portion of its injection wells and EPA has responsibility for the remaining classes, it will be necessary to determine what portion of the State's full formula allotment is attributable to the two different programs.

As explained in section A above, the UIC allotment formula is comprised of 7 individual factors for each State: population, land area,

FOREWORD

On October 12, 1982, the original UIC Program Grant Regulations were replaced with a standardized set of Agency-wide grant regulations, applicable to all of EPA's State grant programs. Since the current Program Grant Regulations, 40 CFR 35, Subpart A, no longer identify any program specific aspect of any of the 9 individual EPA grant programs, we believed it was necessary to have program guidance to address the grant issues left unanswered by regulation. On June 17, 1983, we issued Ground Water Program Guidance # 31 which addressed a few selected aspects of UIC grant policy to be used during FY 84. The following guidance is intended to replace GWPG # 31, and to serve as the single, active guidance on UIC grants, and will remain in effect for future years until formally changed by ODW. Any questions on the guidance or any additional issues upon which a Region would like an interpretation should be directed to the Underground Injection Control Branch, State Programs Division, Office of Drinking Water.

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(5) The Office of General Counsel (OGC) has clarified that a primacy State has the right to prepare a work program and a grant application for its entire formula allotment, even though the Region may have issued a lesser amount in its planning target.

(6) During the last 3 months of any fiscal year, a State's grant shall be prorated according to the number of days remaining in the fiscal year after primacy is assumed. OGC believes that a state which assumes primacy near the end of a fiscal year could not possibly use a full allotment and therefore, we should discourage the states from even considering such a request.

Finally, we will continue to work with you and the States to refine our current grant allocation formula. This will include the composition of the formula, the amount and distribution of base allotments, the allocation factors and weightings. We will also look into the issue of how to divide the grant funds among two State agencies in those States where two agencies split the primacy responsibility for UIC programs under Sections 1422 and 1425 of the SDWA.

This guidance will become effective as of the date of this memorandum. If you have any comments or questions about the guidance, please give me a call, or call Dr. Jentai Yang of the Underground Injection Control Branch, on 382-5542.

Attachment